

MAINE SUPREME JUDICIAL COURT

Reporter of Decisions

Decision: 2002 ME 162

Docket: Ken-02-132

Submitted

on Briefs: September 26, 2002

Decided: October 31, 2002

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, CALKINS, and LEVY, JJ.

ROXANNE ALLEY

v.

JOHN ALLEY

DANA, J.

[¶1] Roxanne Alley appeals from the divorce judgment entered in the Superior Court (Kennebec County, *Worth, J.*) dividing the Alleys' property. Roxanne has challenged the court's factual findings, arguing that the judge misunderstood the evidence or believed a party who should not have been believed. When a person appeals from a judgment and challenges the factual findings of the judge, the appealing person must provide the Law Court with a transcript of the trial testimony in order to allow us to undertake an appellate review of the judge's findings. In this case, Roxanne argues in her reply brief that this Court's denial of John's motion to dismiss prevents us from affirming the judgment on the same grounds raised in his motion, that is, lack of a transcript. However, we generally do not dismiss appeals on this ground. Rather, if it

becomes obvious after giving the parties an opportunity to brief the issues, that a transcript is required for the particular issues on appeal, we then affirm the trial court.

[¶2] Because Roxanne has not provided us with a transcript of the proceedings before the trial court or a statement of the evidence pursuant to M.R. App. P. 5(d), we must assume that there was sufficient evidence to support the court's factual findings. *See Putnam v. Albee*, 1999 ME 44, ¶ 10, 726 A.2d 217, 220.

The entry is:

Judgment affirmed.

For plaintiff:

Roxanne Alley
85 Woodbridge Drive
Manchester, ME 04351

Attorney for defendant:

Brian P. Winchester, Esq.
116 State Street
Augusta, ME 04330